

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #11	CCRB Case #: 202004899	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:40 PM	Location of Incident: East 14th Street between Union Square West and Fifth Avenue	Precinct: 06	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/10/2020 4:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/10/2020 4:00 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. SGT Andrew Campbell	03300	950146	010 PCT
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Tommy Keung	00000	942001	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	[REDACTED]
B. An officer	Force: An officer used physical force against § 87(2)(b)	[REDACTED]
C. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	[REDACTED]
D.SGT Andrew Campbell	Force: Sergeant Andrew Campbell used pepper spray against Individuals.	[REDACTED]
E. Officers	Force: Officers used physical force against individuals.	[REDACTED]
F. An officer	Force: An officer threw a bottle at individuals.	[REDACTED]
G.SGT Andrew Campbell	Untruthful Stmt.: Sergeant Andrew Campbell provided a false official statement to the CCRB.	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On June 10, 2020, complainant/victim § 87(2)(b) filed this complaint while giving a statement to the CCRB about case 202003697.

On May 30, 2020 at approximately 11:15 p.m., § 87(2)(b) was at a police brutality protest at Union Square in Manhattan, walking westbound on East 14th Street from University Place. An officer allegedly ran towards him, shoved him to the ground (**Allegation A- Force-** § 87(2)(g) § 87(2)(b) said, “Get the fuck out of the way” (**Allegation B- Discourtesy-** § 87(2)(g) § 87(2)(b) and called him a “fucking chink” (**Allegation C- Offensive Language-** § 87(2)(g) § 87(2)(b)).

Nearby, § 87(2)(b)'s friend § 87(2)(b) a freelance journalist covering the protests for the Citizen smartphone app, observed Sgt. Andrew Campbell of the 10th Precinct pepper-spraying into a crowd of protestors from behind a line of police officers at University Place and East 13th Street (**Allegation D- Force-** § 87(2)(g) § 87(2)(b)). At an unspecified location, officers allegedly took protestors to the ground (**Allegation E- Force-** § 87(2)(g) § 87(2)(b)). An officer also allegedly threw a bottle at protestors at West 14th Street and Sixth Avenue (**Allegation F- Force-** § 87(2)(g) § 87(2)(b)).

Sgt. Campbell provided a false official statement to the CCRB about this incident (**Allegation G- Untruthful Statement-** § 87(2)(g) § 87(2)(g), § 87(4-b) § 87(2)(b)).

Five cellphone videos were obtained from § 87(2)(b) (Board Reviews 01, 02, 03, 04, and 05). Five body-worn camera (BWC) videos were also obtained but did not capture this incident (Board Reviews 06, 07, 08, 09, and 10). Handheld NYPD Technical Assistance Response Unit (TARU) footage was obtained but did not include any footage taken at the time or location of this incident (Board Reviews 11 and 12). Video footage was also obtained from § 87(2)(b) § 87(2)(b) but it did not capture any part of his interaction with officers (Board Review 13).

§ 87(2)(b) was not arrested as a result of this incident. The CCRB could not attribute any local arrests to any actions alleged.

§ 87(2)(b)

Findings and Recommendations

Allegation (A) Force: An officer used physical force against § 87(2)(b).

Allegation (B) Discourtesy: An officer spoke discourteously to § 87(2)(b).

Allegation (C) Offensive Language: An officer made remarks to § 87(2)(b) **based upon race.**

The CCRB could not locate any video footage of this part of the incident. Video taken by § 87(2)(b) ultimately posted to his § 87(2)(b) shows him walking on the south side of East 14th Street, but for the last few minutes of the video, the screen goes dark and there is only audio. The audio does not record the statements allegedly made by the unidentified officer. The video stops abruptly, and it is not clear if it captures any part of the incident (Board Review 13). Video from five body-worn cameras from an arrest at the south side of Union Square Park did not capture this incident (Board Reviews 6-10).

Facts of the Incident

During his phone interview on June 10, 2020, § 87(2)(b) stated that he was walking westbound on the sidewalk on East 14th Street between University Place and Fifth Avenue. He had lost § 87(2)(b) in the crowd at that point. He did not provide a more specific location. Several officers were rushing eastbound to an incident in Union Square Park. He was taking video of what was happening, but his phone stopped recording before the incident with police because he received a call that he ultimately did not take (Board Review 14).

A white male officer in plainclothes came from behind him, grabbed him by the chest and pushed him to the ground. The officer said, “Get the fuck out of the way,” and called § 87(2)(b) a “fucking chink.” He sustained a scrape on his knee but did not get medical treatment for it (Board Review 14).

§ 87(2)(b) stated during his phone interview with the CCRB on June 27, 2020 that he remembered discussing an incident with police with § 87(2)(b) after the two were reunited, but he could not remember what it was. He did not remember § 87(2)(b) mentioning that he had used a slur against him (Board Review 15).

Ranking Officer and Officer Interviewed

Captain Tommy Keung, the commanding officer of the 13th Precinct, was interviewed and testified that he was assisting with an arrest at Union Square Park South, about a block away, near the time of the incident. He was identified by the investigation as the highest-ranking officer in the area. He neither saw § 87(2)(b) nor could he say which plainclothes commands were operating in the area at the time. As he was in uniform and an Asian male, whereas the subject officer was a white male in plainclothes, he was not identified as the subject of this investigation (Board Review 16).

Police Documents

The CCRB received the Patrol Borough Manhattan South detail roster for the evening of the incident. This document did not list any post locations specific to the protest detail. Most commands listed on this document failed to specify the areas of Manhattan South to which they were assigned. The investigation, however, was able to determine that there were at least seven plainclothes commands assigned to Union Square on the date of the incident. There were no specific post assignments for these commands (Board Review 17).

The CCRB also received roll call and command log documents from the 6th, 9th, and 13th Precincts, the borders of which all converge on Union Square Park. These documents also did not specify post locations (Board Reviews 18-23).

Lists of arrests from the 6th, 9th, and 13th Precincts did not yield any arrests in the immediate spatial and temporal vicinity of this incident (Board Reviews 23-25).

The CCRB received Mass Arrest Processing documents from the Criminal Justice Bureau, from where arrestees from the protests were processed at One Police Plaza. These documents did not specify the locations where detainees were apprehended, and so could not assist in identifying officers making arrests nearby (Board Review 26).

Body-Worn Camera

Body-worn camera (BWC) footage was requested from the NYPD, and negative results for this request were received twice. The first set of negative results, search parameters of the 9th Precinct and Strategic Response Group (SRG) 1 for the entirety of May 30, 2020 were negative (Board Review 27). The second set of parameters, encompassing the 6th Precinct, the 10th Precinct, Emergency Services Squad (ESS) 1, ESS 2, SRG 1, Disorder Control Unit, general SRG, Citywide Traffic Task Force, Narcotics Manhattan South, Critical Response Command, Court Bureau, Lower Manhattan Security Initiative, and the World Trade Center Command (Board Review 28). The third set of BWC footage received, obtained by searching Captain Keung’s name, did not yield any BWC related to this incident, but only included BWC from the arrest with which he was involved on the south side of Union Square Park (Board Reviews 6-10).

Other Video

Fieldwork yielded several cameras on the south side of East 14th Street between University Place and Union Square South, but multiple attempts to obtain footage from them were not successful (Board Review 29). In addition, § 87(2)(b)’s inability to pinpoint a more exact location impeded the investigation in finding surveillance video.

Concurrent Investigation

On March 24, 2021, Det. Mohamed Abdullah of the Internal Affairs Bureau (IAB) was unable to find a concurrent investigation involving any of the known parties in this case (Board Review 40).

Conclusion

Despite the efforts of the investigation to try to identify this officer through NYPD documents and surveillance video, the investigation could not locate the white male plainclothes officer between Fifth Avenue and University Place on East 14th Street who pushed § 87(2)(b) over and spoke to him discourteously and offensively. § 87(2)(g)

Allegation (D) Force: At East 13th Street and University Place in Manhattan, Sergeant Andrew Campbell used pepper spray against individuals.

It is undisputed that at East 13th Street and University Place in Manhattan, Sgt. Campbell used pepper spray against protestors. This occurred on the northwest corner of the intersection while an NYPD van was set on fire on the southeast corner of the street. The circumstances under which Sgt. Campbell used the pepper spray are in dispute.

Cellphone video captured by § 87(2)(b) shows Sgt. Campbell walking east on East 13th Street and speaking to protestors, though what he is saying is unclear. Approximately two minutes later, he appears behind a line of officers facing a line of protestors. He reaches over the line of officers and sprays something from a can towards the protestors. Both the protestors and the officers recoil from where the officer sprayed (Board Review 01, timestamps 00:04:20 to 00:04:25 in the video player. The stream of pepper spray appears at the 00:04:31 mark in the video player.).

§ 87(2)(b) during a phone interview, said to the CCRB that Sgt. Campbell was arguing with a group of six or seven protestors, and not appearing to let them leave the scene. The protestors were lined against a building, and police officers formed another line against the curb. At no point did the group of protestors approach the officers physically or throw anything at them. Sgt. Campbell sprayed the protestors from behind the line of officers, across the sidewalk without giving them any commands. He took video of this occurring by partially scaling a pole nearby. § 87(2)(b) could not identify any of the victims (Board Review 15).

In his CCRB interview, Sgt. Campbell stated that he responded to a call of a fire and general chaos at East 13th Street and University Place. As he was walking to the scene, he saw 15 to 20 police officers being confronted by 200 protestors, and all parties were interspersed among each other. The protestors were throwing bottles at the police and at least one threw clear liquid from a jug onto police. Some individuals were walking through the broken windows of businesses and appeared to be looting. They were making verbal threats such as saying, “dead cops,” and “fuck you up,” though the general atmosphere was chaotic, and he could not tell who was making these threats. Sgt. Campbell did not recognize anyone on scene and did not identify anyone especially frail (Board Review 30).

Sgt. Campbell felt himself being pulled to the ground by the front and back of his shirt and observed other officers being pulled downwards by civilians on the scene. He could not say who was doing this. He felt his knee and arm make contact with the ground and yelled, “I am getting my mace.” He used his pepper spray at no one in particular for approximately two seconds. Whoever was holding onto him let go, and everyone nearby started coughing. Sgt. Campbell then left the scene (Board Review 30).

During his CCRB interview, Sgt. Campbell viewed the footage taken by § 87(2)(b) of him pepper-spraying the protestors. He confirmed that he was in the video, but he was not able to confirm that he was shaking a can and spraying a substance onto the line of protestors. He said, “This video is not really...too good.” He said that the spray from the can appeared to him to be

“lights in the background.” When asked when the video took place in relation to his using OC spray, he said, “I definitely used it before this.” When asked directly whether the video showed him using OC spray, he said, “I don’t think so” (Board Review 30)

§ 87(2)(b), § 87(2)(g)

Per Patrol Guide Procedure 221-01, those evaluating force should consider the following factors: the severity of the circumstances, the actions taken by the subjects, the duration of the action, the immediacy of perceived harm to those nearby, whether the subjects are resisting custody or arrest by flight, size, age, and condition of the subjects, any known violent history, presence of a hostile crowd, or anyone being under the influence of substances that increase pain tolerance (Board Review 31). Patrol Guide 221-07 governs the use of pepper spray. It stipulates that officers should not use pepper spray “indiscriminately...over a large area...for disorder control” (Board Review 32).

The only factor that undisputedly indicates for the use of pepper spray is the apparent large, hostile crowd at University Place and East 13th Street.

§ 87(2)(b), § 87(2)(g)

Allegation (E) Force: Officers used physical force against individuals.

The investigation could not locate and isolate any video footage that showed the allegations that appear below.

Facts of the Incident

§ 87(2)(b) stated that somewhere near East 14th Street and Fifth Avenue, officers wearing white shirts were directing other uniformed officers to chase down and take protestors to the ground. He could not describe the officers who were taking the protestors to the ground and he could not describe the protestors who were taken to the ground. He could not say when in the sequence of events this occurred, and he could not give a more specific route that he traveled during the course of the protest besides that he was going westbound on East 14th Street (Board Review 15).

Ranking Officer and Officer Interviewed

Captain Keung, the commander of the 13th Precinct, who was in Union Square Park at the time of this incident, did not have any specific recollection of any officers taking civilians to the ground (Board Review 16).

NYPD Documents Reviewed

As no specific incident was given, no arrest reports could be attributed to this part of the incident. Furthermore, as mentioned above, the detail rosters provided by Patrol Borough Brooklyn South do not list specific post locations (Board Review 17). Handheld TARU footage was requested and reviewed but none of it pertained to this part of the incident (Board Reviews 11 and 12).

BWC

As mentioned above, footage was requested from the NYPD, and negative results for this request were received twice, first the 9th Precinct and Strategic Response Group (SRG) 1 for the entirety of May 30, 2020 (Board Review 27) and second from, encompassing the 6th Precinct, the 10th Precinct, Emergency Services Squad (ESS) 1, ESS 2, SRG 1, Disorder Control Unit, general SRG, Citywide Traffic Task Force, Narcotics Manhattan South, Critical Response Command, Court Bureau, Lower Manhattan Security Initiative, and the World Trade Center Command between 11:00 a.m. on May 30, 2020 and 12:15 a.m. on May 31, 2020 (Board Review 28).

Concurrent Investigations

As mentioned above, IAB has denied any concurrent investigation. (Board Review 40)

§ 87(2)(b), § 87(2)(g)

Allegation (F) Force: An officer threw a bottle at individuals.

Video provided by § 87(2)(b) showed that as § 87(2)(b) stood at West 14th Street and Sixth Avenue, an item flew into the air from the direction of a crowd of officers and shattered on the street. This item did not make contact with anyone. This video does not show who, if anyone, threw this item. The video does not show any additional direct contact between officers and civilians, such as any other use of force or any civilian being taken into custody (Board Review 02, timestamps 00:02:15 to 00:02:50 in the video player).

Facts of the Incident

§ 87(2)(b) reported that while he was approximately two blocks west of Union Square on East 14th Street, an officer threw a bottle towards a group of protestors. He believed that an officer threw this bottle because the bottle appeared to be coming from a group of officers (Board Review 15).

Ranking Officer and Officer Interviewed

Captain Keung, who was in Union Square Park at the time of this incident, did not have any specific recollection of an officer throwing a bottle on the night of the incident (Board Review 16).

NYPD Documents Reviewed

The investigation could not attribute any specific arrest reports to this part of the incident. As mentioned above, the detail rosters provided by Patrol Borough Manhattan South do not list specific post locations (Board Review 17). Handheld TARU footage was requested and reviewed but did not yield any additional information (Board Reviews 11 and 12).

BWC

As mentioned above, footage was requested from the NYPD, and negative results for

this request were received twice, first the 9th Precinct and Strategic Response Group (SRG) 1 for the entirety of May 30, 2020 (Board Review 27) and second from, encompassing the 6th Precinct, the 10th Precinct, Emergency Services Squad (ESS) 1, ESS 2, SRG 1, Disorder Control Unit, general SRG, Citywide Traffic Task Force, Narcotics Manhattan South, Critical Response Command, Court Bureau, Lower Manhattan Security Initiative, and the World Trade Center Command between 11:00 a.m. on May 30, 2020 and 12:15 a.m. on May 31, 2020 (Board Review 28).

Concurrent Investigations

As mentioned above, IAB could not find any concurrent investigation. (Board Review 40)

Conclusion

§ 87(2)(b), § 87(2)(g)

Allegation (G) Abuse of Authority: Sergeant Andrew Campbell provided a false official statement to the CCRB.

§ 87(2)(g)

During his statement, Sgt. Campbell claimed that just before he pepper-sprayed members of the crowd, multiple people pulled him and other officers to the ground. Video evidence § 87(2)(g) showed Sgt. Campbell using pepper spray against members of the crowd as he stood behind a line of other officers. During his interview, Sgt. Campbell had a chance to review the video taken by § 87(2)(b) and claimed, “I definitely used it before this,” and that the stream of pepper-spray seen in the video was “lights in the background.”

Patrol Guide Procedure 203-08 forbids officers for making false official statements (Board Review 33). Under DCT Case 2016-16097, a false statement that merits Departmental discipline must not be a “mere denial of an administrative charge of misconduct” but a statement that constructs a “false description of events” about a material matter (Board Review 34).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the second CCRB complaint involving § 87(2)(b) § 87(2)(b)
- Sgt. Campbell has been a member of service for nine years. Two prior CCRB cases, with six prior CCRB allegations, have been filed against him. None has been substantiated
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation given its association with the 2020 anti-police brutality protests.
- On March 30, 2021 a request for a Notice of Claim was made to the New York City Office of the Comptroller was returned with negative results (Board Review 38).
- According to the Office of Court Administration, between October 3, 1998 and July 17, 2020, § 87(2)(b) has been convicted of § 87(2)(b) disorderly conduct (twice), assault (once), § 87(2)(b), and harassment § 87(2)(b)

Squad No.: 11

Investigator: Miriam Lynch SI Miriam Lynch 04/14/2021
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 04/15/21
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date